

## **REMARKS**

The Applicants respectfully request reconsideration of the response filed January 13, 2010 in view of the foregoing amendments to claims 1, 5, and 9. No claims have been added. Claims 2, 3, 6, 7, 10, 11 and 16-25 were previously cancelled. Accordingly, claims 1, 4-5, 8-9, and 12-15 are pending in the Application.

Specifically, the claims have been amended to replace each set of parentheses with a semicolon. The Examiner noted in a phone-interview with the Applicants' representative Dimitri Kirimis on February 19, 2010 that amending the claims in this fashion would bring the Response to Office Action in compliance with all requirements of M.P.E.P. § 714 and 37 CFR § 1.52.

The Applicants resubmit the arguments of the Response to Office Action of January 13, 2010 based on the above described amendments. The Applicants respectfully request reconsideration in view of these amendments and remarks.

### **I. Claims Rejected Under 35 U.S.C. § 103**

Claims 1, 2, 4-6, 8-10 and 12-15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over "Using XML Schemas to Create and Encode Interactive 3-D Audio Scenes for Multimedia and Virtual Reality Applications" by Potard et al. ("Potard") in view of "Proceedings of the 2003 International Conference on Auditory Display" by Pihkala et al. ("Pihkala") for the reasons indicated at pages 2-7 of the Final Office Action.

To determine obviousness of a claim: (1) factual findings must be made under the factors set forth in Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966); and (2) the analysis supporting the rejection under 35 U.S.C. § 103 should be made explicit and there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. See MPEP §§ 2141(II), 2141(III), and 2142; KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385, 1396; see e.g., MPEP § 2143 (providing a number of rationales which are consistent with the proper "functional approach" to the determination of obviousness as laid down in Graham).

In regards to the rejection of independent claims 1, 5, and 9 under 35 U.S.C. § 103, these claims have been amended to recite "wherein the spatiality extension information of the sound source includes sound source dimension information that is expressed as  $x_0\text{-}\Delta x$ ,  $y_0\text{-}\Delta y$ ,  $z_0\text{-}\Delta z$ ;  $x_0$ ,

$y_0, z_0$ ; and  $x_0+\Delta x, y_0+\Delta y, z_0+\Delta z$ ” (emphasis added). These amendments are supported, for example, by page 7, line 34 through page 8, line 13 of the Specification as filed.

In the previous Amendment and Response to Final Office Action filed December 14, 2009, the Applicants amended the claims to recite “wherein the spatiality extension information of the sound source includes sound source dimension information that is expressed as three components of a set of three-dimensional coordinates” (emphasis added). However, in the Advisory Action of January 12, 2010 the Examiner merely addressed the three-dimensional aspect of this limitation. See Advisory Action, Page 2. The Examiner failed to address how Potard discloses three components of a set of three-dimensional coordinates. See Id. In response, the Applicants have amended claims 1, 5, and 9 to more clearly recite that spatiality extension information of a sound source includes three components of a set of three-dimensional coordinates. Specifically, the three components of a set of three-dimensional coordinates are defined by  $x_0-\Delta x, y_0-\Delta y, z_0-\Delta z$ ;  $x_0, y_0, z_0$ ; and  $x_0+\Delta x, y_0+\Delta y, z_0+\Delta z$ .

Further, the Applicants submit that Potard fails to teach or suggest these elements of amended claims 1, 5, and 9. Although Potard discloses using three-dimensions to describe a location of a sound source (see Potard, § 2.5.2), Potard fails to define a sound source using multiple sets of three-dimensional coordinates as Potard is silent on such a definition of a sound source. By defining spatiality extension information of a sound source using multiple sets of three-dimensional coordinates, amended claims 1, 5, and 9 can provide a more robust sound environment with potentially less total defined sound sources.

As described above, Potard fails to disclose each element of amended claims 1, 5, and 9. Further, the Applicants have been unable to locate any sections of Pihkala which disclose these elements of amended claims 1, 5, and 9. Therefore, amended claims 1, 5, and 9 are not obvious in view of the combination of Potard and Pihkala. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1, 5, and 9 on this basis.

In regard to claims 4, 8, and 12-15, these claims depend from independent claims 1, 5, and 9, respectively, and incorporate the limitations thereof. The Examiner’s argument assumes that the combination of Potard and Pihkala disclose all elements of claims 1, 5, and 9 which are incorporated in dependent claims 4, 8, and 12-15. However, as discussed above, the combination of Potard and Pihkala does not disclose all the limitations of amended claims 1, 5, and 9.

Therefore, claims 4, 8, and 12-15 are not obvious in view of the combination of Potard and Pihkala. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of claims 4, 8, and 12-15 on this basis.

### CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

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Dated: \_\_\_\_\_

3/1/2016

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